

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TODD JACOB TIGNER
and ANDREW JOHN STREU,

Plaintiffs,

CASE NO. 20-cv-13438

v.

HONORABLE DENISE PAGE HOOD

CHARLES EGELER RECEPTION
& GUIDANCE CENTER and the
MICHIGAN DEPARTMENT OF
CORRECTIONS,

Defendants.

**ORDER SUMMARILY DISMISSING THE COMPLAINT
WITHOUT PREJUDICE FOR WANT OF PROSECUTION**

This matter came before the Court on a *pro se* civil rights complaint. (ECF No. 1.) Plaintiffs Todd Jacob Tigner and Andrew John Streu are state prisoners. The defendants are the Charles Egeler Reception & Guidance Center in Jackson, Michigan, and the Michigan Department of Corrections (“MDOC”).

Plaintiffs were incarcerated at the Egeler Center on December 16, 2020, when they filed their complaint. They allege in their complaint that the Center and MDOC are not taking the proper steps to protect them and other inmates from the coronavirus known as COVID-19. They seek immediate release from custody and money damages for alleged violations of their constitutional rights and for the pain, suffering, and emotional distress they have experienced.

Plaintiffs filed a joint application to proceed without prepaying the filing fee for their complaint. (ECF No. 2.) Although they claimed to have no income, they did not submit certified statements regarding their trust fund accounts at the Egeler Center, as required by 28 U.S.C. § 1915(a)(2).

On January 26, 2021, Executive Magistrate Judge R. Steven Whalen ordered each plaintiff to pay the filing fee and an administrative fee or to file an application to proceed without prepaying the filing fee and a certified account statement for the six-month period preceding the filing of their complaint. (ECF Nos. 3 and 4.) Magistrate Judge Whalen warned the defendants that any failure to comply with his order within thirty days of the order could result in the dismissal of their case for want of prosecution. Court staff mailed a copy of Magistrate Judge Whalen's order to each plaintiff on January 26, 2021. *See id.*

On February 1, 2021, Streu filed an application to proceed without prepaying the filing fee and some uncertified financial records. (ECF No. 5.) In an attached note addressed to the Clerk of the Court, he stated that he did not file the lawsuit and that he did not want to be charged for it. He also stated that he knew from previous litigation that this case would be dismissed under the Eleventh Amendment. *Id.* at PageID.24.

Unlike Streu, Tigner did not respond to Magistrate Judge Whalen's deficiency order. And more than sixty days have expired since Magistrate Judge

Whalen ordered Tigner to pay the filing fee or to submit a certified account statement and apply for permission to proceed without prepaying the filing fee.

The Court concludes that Streu is an unwilling litigant in this action and that neither plaintiff wishes to pursue their joint complaint. Both plaintiffs also have failed to submit certified statements of their trust fund accounts, as required by 28 U.S.C. § 1915(a)(2) and Magistrate Judge Whalen's deficiency orders. The Court, therefore, summarily dismisses the complaint without prejudice for want of prosecution. Fed. R. Civ. P. 41(b); E.D. Mich. LR 41.2; *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629-633 (1962). This case is now closed.

s/Denise Page Hood

Chief Judge, United States District Court

Dated: May 13, 2021